IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLIATION NO.1480/06

Shri.Balasahib @ Tayasaheb Bhanudas Gaikwad .... Applicant

V/s.

The State of Maharashtra .... Respondent

Shri.M.A. Choudhari Adv. for the applicant.
Shri.Y.S. Shinde, APP for the State.

CORAM : V.M. KANADE, J.

DATED : 21/04/2006

P.C.:-

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. The applicant was arrested on 01/02/2006 in connection with C.R.No.15/2006 for the offence punishable U/s.302 r/w 34 of IPC.

3. The prosecution case is that on 14/01/2006, the applicant alongwith other accused persons assaulted deceased and incident had taken place some time in the evening between 8.30 p.m. to 9.00 p.m. As a result of blow which was given on the head of

the deceased, he died after 14 days i.e. 29th January, 2006. It is the case of the prosecution that deceased was in comma during this period. However, he used to regain consciousness for some time and during this period he informed his son about involvement of the present applicant and other accused in the commission of said offence. Apart from this, statement of eye witness was also recorded.

4. I have perused the statement of eye witness and other police papers. Statement of eye witness has been recorded almost after 17 days. No explanation has been occurred as to why statement was recorded belated.

5. At least so far as the present applicant is concerned, he is working as Bus-conductor and there is evidence to show that he was on duty till 8.00 p.m. Since there is delay in recording statement of eye witness, only other evidence is DD. In my view, the applicant is entitled to be released on bail. Apart from this, chargesheet has also been filed. Under this circumstances, the applicant be released

on bail in the sum of Rs.5,000/- with one or two sureties in like amount. The applicant shall report to Sangola Police Station twice in a month.

6. The applicant shall not tamper with the evidence or threaten the witnesses. If any complaint is received by the Investigating Officer, the Public Prosecutor is at liberty to file an application for cancellation of bail.

7. The Trial Court shall not be influenced by any observations made by this Court while deciding the application and they shall not be construed as an expression of opinion on merits of the case.

8. The application is accordingly disposed of.

V.M. KANADE J.